IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Application No. 09/954,509

Applicant: Omshehe, et al.

Filed: September 14, 2001

TC/AU: 2141

Examiner: Shingles, Kristie D.

Docket No.: 213306

Customer No.: 23460

AMENDED APPELLANTS' APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In support of the appeal from the final rejection dated May 18, 2006, and in response to the Notice mailed on November 16, 2007, Appellants now submit their Amended Brief.

Real Party In Interest

The patent application that is the subject of this appeal is assigned to Invensys Systems, Inc.

Related Appeals and Interferences

There are no appeals or interferences that are related to this appeal.

Status of Claims

Claims 1-20 stand finally rejected, and these rejections are presently being appealed.

A complete listing of these claims appears in the Claims Appendix.

Status of Amendments

There were no amendments submitted after the final rejection.

Summary of Claimed Subject Matter

Claims 1-20, including independent claims 1 and 17 are pending. The summaries of the independent claims reference the specification and drawings filed with the application on September 14, 2001.

Independent claim 1 pertains to a method for administering a session-based concurrent user licensing agreement in a manufacturing/process control information environment (see, FIG. 1) wherein a single session logon persists across multiple distinct resources (see page 7, lines 21-28) to which access is provided via a plant information portal server (portal server 10, page 8, lines 1-6). The claimed method is implemented by the plant information portal server (portal server 10) and a license manager (FIG. 2, license manager wrapper 110, service 115 and DLL 120).

The method includes receiving, by the plant information portal server (server 10) an access request for which a license is required (see, page 4, lines 5-14).

According to the recited steps of claim 1, the license manager (license manager service 115) is invoked based upon a code within a sequence of commands (e.g., a script 105, p. 4, lines 5-14, and page 8, lines 8-23) associated with a requested one of multiple resources accessed via the plant information portal server (see, FIG. 7, step 400, page 14, lines 4-9). Thereafter, the license manager confirms that the source of the requested resource needs one of the concurrent licenses (see, step 420 at page 14, line 24, to page 15, line 4). An additional license is not provided if a license is already assigned to the identified source's session. The license manager also performs a step of confirming the availability of one of the multiple user licenses (see, step 424, and page 15, lines 5-11). Finally, as part of the license assignment process, the license manager adds the identified source to a list of concurrently licensed user sessions (see, step 430, page 15, lines 14-17).

Independent claim 17 is directed to computer-readable media including computer executable instructions for facilitating administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal (see portal server 10, FIG. 1, license manager service 115, and LicMgr.dll 120, p. 8, lines 12-23) such that a single session logon persists across multiple distinct resources (see page 7, lines 21-28) to which access is provided via a plant information portal server (portal server 10, page 8, lines 1-6). The claimed computer-readable media including computer executable instructions is incorporated into the plant information portal server (portal server 10) in the form of a license manager (FIG. 2, license manager wrapper 110, service 115 and DLL 120).

In the illustrative embodiment, the computer executable instructions of the license manager carry out the recited steps of claim 17 including receiving, by the plant information portal server (server 10) an access request for which a license is required (see, page 4, lines 5-14).

According to the recited steps of claim 17, the license manager (license manager service 115) is invoked based upon a code within a sequence of commands (e.g., a script 105, p. 4, lines 5-14, and page 8, lines 8-23) associated with a requested one of multiple resources accessed via the plant information portal server (see, FIG. 7, step 400, page 14, lines 4-9). Thereafter, the license manager confirms that the source of the requested resource needs one of the concurrent licenses (see, step 420 at page 14, line 24, to page 15, line 4). An additional license is not provided if a license is already assigned to the identified source's session. The license manager also performs a step of confirming the availability of one of the multiple user licenses (see, step 424, and page 15, lines 5-11). Finally, as part of the license assignment process, the license manager adds the identified source to a list of concurrently licensed user sessions (see, step 430, page 15, lines 14-17).

Dependent claim 3 recites that the invoking step recited in claim 1 is performed in response to an attempt by a particular identified user-session to access portal resources via a web page provided by the portal server (see, FIG. 2, p. 8, lines 9-14 and 18-21; FIG. 7, p. 13, lines 15-18, steps 400 and 402, p. 14, lines 4-7).

Dependent claim 4 recites that the first confirming step comprises determining that the identified source does not currently possess one of the session-based concurrent licenses (see, FIG. 7, step 420, p. 14, line 24 to p. 15, line 6).

Dependent claim 7 recites that an allocated session-based concurrent license grant, as a result of the adding step, persists across requests from the identified source spanning multiple distinct resources accessed via the plant information portal server (see, p. 6, lines 6-13 and 25-28; p. 7, lines 21-28; p. 10, lines 18-21.

Dependent claim 9 recites the further steps of: receiving, by an entity that initiated a license request call to the license manager during the invoking step (see, FIG. 7, step 414, p. 13, lines 22-27) the indication; and determining, based upon the received indication, whether to grant the access request (see, *Id.*; p. 7, lines 3-4).

Dependent claim 12 recites the step of maintaining access via the portal server to a set of resources, and wherein the invoking step is implemented with regard to the set of resources on an individual resource basis (see, p. 6, lines 14-22; and FIG. 7, p. 13, lines 12-15).

Dependent claim 13 recites persisting a previous session-based concurrent license grant when a requestor exits a resource associated with an initial grant of the session-based concurrent license (see, p. 6, lines 6-13 and 25-28; p. 7, lines 21-28; p. 10, lines 18-21.

Grounds of Rejection to be reviewed on Appeal

The grounds of rejection to be reviewed on appeal are the grounds stated in the Final Office Action mailed on May 18, 2006. In particular, Appellants appeal:

1. The rejection of claims 1, 2, 4-6, 8-12, 14 and 17-19 under 35 U.S.C. Section 102(e) as anticipated by Redding et al. U.S. Pat. 6,968,384 (the Redding '384 patent).

2. The rejection of claim 3 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of Applicant's Admitted Prior Art (AAPA).

3. The rejection of claims 7, 13, 15, and 20 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of Conte et al. U.S. Pat. 5,845,065 (the Conte '065 patent).

4. The rejection of claim 16 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of the Conte '065 patent and Frison et al. U.S. Pat. 6,049,789 (the Frison '789 patent).

Argument

Appellants request reversal of the rejection of presently pending claims 1-20 (provided in the Claims Appendix attached hereto) that are directed to a method (and computer-readable medium including computer-executable instructions) for administering a *session-based* concurrent user licensing agreement on a manufacturing/process control information portal wherein a single logon persists across multiple distinct resources to which *a plant information portal server* (see, FIG. 1, portal server 10) provides access. Appellants respectfully submit that the Redding '384 patent does not disclose or even remotely suggest the recited "plant information portal server" that provides access to manufacturing/process control information resources.

Furthermore, Redding clearly does not disclose the "adding the identified user to a *list of session-based concurrent license users*" step. The Redding '384 patent discloses enforcing a general multi-user license for a software program in on-line ("network authorization" described from col. 8, line 33 to col. 9, line 54) and off-line ("commuter authorization" described from col. 9, line 55 to col. 14, line 2) forms. Redding, in fact, does not even disclose a list of *users* for either of the two licensing modes.

Finally, Redding does not disclose the "first confirming" step. The first confirming step initially checks to see whether the user currently has a session-based concurrent license. However, the Redding patent discloses two different licensing modes – neither of which requires checking for a "session-based concurrent user license".

For at least these reasons, the present rejection of claims 1-20 cannot stand. The grounds for Appellants' appeal are addressed further herein below.

Rejection of Claims 1, 2, 4-6, 8-12, 14 and 17-19 as anticipated by the Redding '384 patent

Claims 1, 2, 6, 8, 10, 11, 14, 17, and 19

Appellants seek reversal of the rejection of **claim 1** as anticipated by the Redding '384 patent. Appellants respectfully submit that the Redding '384 patent does not disclose all the recited elements of independent claim 1. Claim 1 explicitly recites a "plant information portal

server" that, as described in the specification, provides access to manufacturing/process control information resources.

Referring to the elements of the preamble and "receiving" and "invoking" steps, the Redding '384 patent neither discloses nor even remotely suggests a "plant information portal server." The plant information portal server is described by Appellants in their Background and written description of FIG. 1. In the illustrative example, the plant information portal server provides access to manufacturing/process control information through, for example, a data access server (providing live/streaming access to process control equipment in a plant) and a database server (containing archived manufacturing/process control information).

In contrast to Appellants' claimed plant information portal server, the Redding '384 patent discloses administering multi-user access to vendor software applications. There is no disclosure of plant information anywhere in the Redding '384 patent. In contrast Appellants' recited plant information comprises, for example, real time process control/status information. The vendor software accessed in Redding is relatively static in nature and Redding neither discloses nor suggests its applicability to the presently claimed invention wherein the accessed plant information is dynamic by nature and not likely to maintained as a "library" of stored content (as is the case with software applications maintained by a server).

Moreover, the Redding '384 patent does not disclose a "portal" or "portal server." The claimed invention is directed to "administering à session-based concurrent user licensing agreement on a manufacturing/process control information portal." In addition to the general understanding in the art of portal functionality provided by such well known sites as "Yahoo", "MSN", etc., Appellants also describe general traits of a portal site/server at page 3, lines 1-21. A "portal server" is neither mentioned nor described anywhere in the Redding patent.

Furthermore, with regard to the remaining elements of claim 1, Redding does not disclose the "adding the identified user to a *list of session-based concurrent license users*" step. The Redding '384 patent, upon which the Final Office Action relies, discloses enforcing a general multi-user license for a software program in on-line ("network authorization" described from col. 8, line 33 to col. 9, line 54) and off-line ("commuter authorization" described from col. 9, line 55 to col. 14, line 2) forms. While the network authorization could potentially be considered a

"session-based" license, it does not persist across multiple distinct resources to which access is provided via the portal server, and therefore there does not appear to be even a need to maintain the claimed list of *concurrent license users* in the case of Redding's network authorizations. Redding, in fact, does not disclose the claimed "list of session-based concurrent license *users*" that would facilitate such persistence of a user's logon. Appellants submit that Redding does not even disclose a list of *users* for either of the two licensing modes.

Finally, Redding does not disclose the "first confirming" step for determining whether the user currently has a session-based concurrent license. It is initially noted that the Redding patent discloses two different licensing modes – neither of which requires checking for a "session-based concurrent user license". Redding's disclosed *network authorization* mode simply does not need to check for such a license since the user, once connected, is always connected and therefore there is no need to check whether a connected user has a license – such a user must have a license. With regard to the *commuter authorization* mode, a license is intended to persist far beyond a logged on user session (e.g., 30 days according to col. 11, lines 36-39), and thus a commuter authorization is not a "session-based" user license. Thus, while the Final Office Action appears to mix and match elements from Redding's two distinct authorization modes in support of the rejection of claim 1, neither mode includes a session-based concurrent user license.

Appellants seek reversal of the rejection of independent claim 17, which includes elements tracking the steps recited for claim 1, for at least the reasons set forth herein above regarding claim 1.

Claims 4, 5 and 18

Appellants specifically request reversal of the rejection of **claims 4, 5 and 18**. As noted previously above, Redding describes both a session-based (network authorization) and a non-session-based (commuter authorization) license. The portion of the disclosure in Redding that the Office Action relies (col. 10, lines 42-51) describes the non-session-based license scheme. For at least this reason, the rejection of claim 4 should be reversed.

Claim 9

Claim 9 recites an indirect licensing scheme wherein a requestor of a concurrent license ultimately decides whether to grant an access request. Thus, a multi-user licensing scheme is disclosed that allows each requestor to decide how to handle situations where no concurrent user licenses are available (e.g., allow a user to have limited access to the requested resource). This aspect of the claimed invention is described, by way of example, at page 13, line 22 to page 14, line 3. Nowhere does Redding disclose this claimed feature.

Claim 12

Appellants disclose a license manager invocation scheme wherein a call is initiated to a license manager in response to execution of an embedded script line within an accessed Web page (see, e.g., page 8, lines 8-21) corresponding to a resource of interest provided via the plant information portal server. The description of the licensing scheme in Redding at col. 8, line 60 to col. 9, line 4 merely describes a license allocation procedure for a single resource for which a limit has been set. Redding does not disclose the recited concurrent licensing scheme where a set of resources (that share a single license pool) independently execute their own invoking step.

The rejection of claim 3 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of Applicant's Admitted Prior Art (AAPA)

The rejection of claim 3 should be reversed for at least the reasons set forth herein above. Appellants do not contend that invoking a license manager via a Web page is new. However, the claimed combination is new, and non-obvious, at least in the sense that the prior art does not teach or suggest that once a user leaves a particular resource within a portal, the previously allocated session-based concurrent user license persists to other protected resources accessed via the plant information portal server.

The rejection of claims 7, 13, 15, and 20 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of Conte et al. U.S. Pat. 5,845,065 (the Conte '065 patent)

Claims 7, 13, 15 and 20

The rejection of **claim 7** should be reversed. First, a commuter authorization is not a *session-based* license. As the Office Action itself acknowledges, the license persists even after

the user disconnects (e.g., 30 days). Furthermore, the Conte '065 patent discloses a software suite license which does not in any way relate to a plant information portal environment or to user sessions. In fact, Conte's licensing scheme is based on semi-permanent user licenses that are revoked to allow other users access to the contents of a software suite. The combined teachings of Redding and Conte do not disclose the claimed invention. Rather they teach a licensing scheme that assigns a concurrent license covering a set of software programs, and that persists beyond a user session.

Similarly, the rejection of **claim 13** should be reversed since the commuter license in Redding and the suite license in Conte are not session-based concurrent user licenses, and neither reference even remotely discloses a plant information portal server providing access to the set of resources.
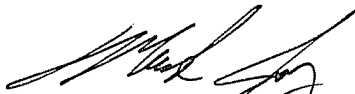
The rejection of claim 16 under 35 U.S.C. 103(a) as being obvious over the Redding '384 patent in view of the Conte '065 patent and Frison et al. U.S. Pat. 6,049,789 (the Frison '789 patent)

The rejection of claim 16 should be reversed for at least the reasons set forth herein above regarding claim 1 from which it depends.

Conclusion

The cited Redding patent neither discloses nor suggests elements recited in Appellants' presently pending independent claims. In particular, Redding does not disclose a *plant information portal server* nor does Redding disclose a list of session-based concurrent license users to which a session-based concurrent license is assigned (to persist the concurrent license across multiple distinct resources to which access is provided via the plant information portal server. Appellants therefore request reversal of the final rejection of claims 1-20.

Respectfully submitted,

Mark Joy, Reg. No. 35,562
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza
180 North Stetson Ave., Suite 4900
Chicago, Illinois 60601-6731
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: December 17, 2007

Claims Appendix

This listing of claims replaces all prior versions, and listings, of claims in the application.

1. (Previously presented) A method for administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal such that a single logon during a session persists across multiple distinct resources to which access is provided via a plant information portal server, the method comprising the steps:

receiving, by the plant information portal server, an access request for a resource for which a license is required;

invoking, based upon a code within a sequence of commands associated with the requested resource, a license manager associated with restricted resources associated with the plant information portal server, the license manager performing, for the purpose of granting, if needed, one of potentially multiple available session-based concurrent licenses, a set of further steps including:

first confirming that an identified source associated with the request needs a concurrent license;

second confirming that a concurrent license is available to assign to the identified source; and

adding the identified source to a list of session-based concurrent license users to which a session-based concurrent license is assigned.

2. (Previously presented) The method of claim 1 wherein the second confirming step is based upon a maximum number of allowed concurrently licensed sessions under an established concurrent license agreement maintained by the license manager.

3. (Previously presented) The method of claim 1 wherein the invoking step is performed in response to an attempt by a particular identified user-session to access portal resources via a web page provided by the portal server.

4. (Previously presented) The method of claim 1 wherein the first confirming step comprises determining that the identified source does not currently possess one of the session-based concurrent licenses.

5. (Previously presented) The method of claim 4 wherein the first confirming step is carried out by comparing the identified source of the request with the list of session-based concurrent license users.

6. (Previously presented) The method of claim 1 further comprising the steps of:

allocating a session-based concurrent license to the identified source; and

adjusting a concurrent license counter value in accordance with the assigning step.

7. (Previously presented) The method of claim 1 wherein an allocated session-based concurrent license grant, as a result of the adding step, persists across requests from the identified source spanning multiple distinct resources accessed via the plant information portal server.

8. (Previously presented) The method of claim 1 further comprising the license manager returning an indication of whether a session-based concurrent license has been granted to the identified source of the request.

9. (Previously presented) The method of claim 8 further comprising the steps of:

receiving, by an entity that initiated a license request call to the license manager during the invoking step, the indication; and

determining, based upon the received indication, whether to grant the access request.

10. (Previously presented) The method of claim 1 wherein the sequence of commands include a conditional test for invoking the license manager.

11. (Previously presented) The method of claim 10 wherein the conditional test relates to an origin of the access request.

12. (Previously presented) The method of claim 1 further comprising, maintaining access via the portal server to a set of resources, wherein the invoking step is implemented with regard to the set of resources on an individual resource basis.

13. (Previously presented) The method of claim 1 further comprising persisting a previous session-based concurrent license grant when a requestor exits a resource associated with an initial grant of the session-based concurrent license.

14. (Previously presented) The method of claim 1 wherein the code within a sequence of commands associated with the requested resource comprises a function call for invoking a service with which the license manager is associated.

15. (Previously presented) The method of claim 1 further comprising maintaining a historical record of concurrent license usage information.

16. (Previously presented) The method of claim 15 further comprising displaying the concurrent license usage information via a query results interface.

17. (Previously presented) Computer-readable media including computer executable instructions for facilitating administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal such that a single logon during a session persists across multiple distinct resources to which access is provided via a plant information portal server, the computer executable instructions facilitating performing the steps of:

receiving, by the plant information portal server, an access request for a resource for which a license is required;

invoking, based upon a code within a sequence of commands associated with the requested resource, a license manager associated with restricted resources associated with the plant information portal server, the license manager performing, for the purpose of granting, if needed, one of potentially multiple available session-based concurrent licenses, a set of further steps including:

first confirming that an identified source associated with the request needs a concurrent license;

second confirming that a concurrent license is available to assign to the identified source; and

adding the identified source to a list of session-based concurrent license users to which a session-based concurrent license is assigned.

18. (Previously presented) The computer-readable medium of claim 17 wherein the first confirming step comprises determining that the identified source does not currently possess one of the session-based concurrent licenses.

19. (Previously presented) The computer-readable medium of claim 17 further comprising computer-executable instructions facilitating the license manager returning an indication of whether a session-based concurrent license has been granted to the identified source of the request.

20. (Previously presented) The computer-readable medium of claim 17 further comprising computer-executable instructions facilitating maintaining a historical record of concurrent license usage information.

Evidence Appendix
Not Applicable

Related Proceedings Appendix
Not Applicable